

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

JAMES D. JOHNSON, et al.

PLAINTIFFS

vs.

CIVIL ACTION NO. 3:04cv251LN

HALEY BARBOUR, et al.

DEFENDANTS

**DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR LEAVE TO RELEASE
THE REDACTED SOCIAL WORKER EXPERT REPORT OF DR. LEWIS**

COME NOW the Defendants, by and through counsel, and file their Response to Plaintiffs' Motion for Leave to Release the Redacted Social Worker Expert Report of Dr. Lewis,. and would show unto the Court the following:

1.

Plaintiffs have sought leave of this Court to "publicly release" the redacted report of Dr. Marva L. Lewis, their social worker expert, regarding her review of the Named Plaintiffs records and allege "various media have made requests concerning this Named Plaintiff information". *(See pages 1-2 of Plaintiffs' Motion for Leave to Release the Redacted Social Worker Expert Report of Dr. Lewis).*

2.

Plaintiffs attorneys have thus far released three (3) of their reports to the media and granted a number of interviews. This has resulted in a borage of new stories since the reports were released last month. These stories have implied that Mississippi Department of Human Services ("MDHS") workers were failing to perform their job.

3.

The release of these new stories have had a negative impact upon MDHS employees and the social workers who risk their own safety to protect children from abuse. During this flurry of publicity, individual MDHS caseworkers have even been approached by the media and asked to comment.

4.

The employees at MDHS' Division of Family and Child Services ("DFCS") are already burdened with the rigors of this lawsuit including massive document productions and depositions. When these news stories arise, the agency is inundated with constant requests for interviews and statements which interfere with their ability to focus on their job of protecting children.

5.

Through releases to the media by Plaintiffs' counsel, the public has been given a picture of the Plaintiffs' experts' opinions crafted to show MDHS in the worst possible light. Release of this report to the media will only serve to burden and prejudice the agency.

6.

Plaintiffs allege that the Lewis report as redacted does not include any identifying information. However, there is enough information contained in the report regarding the Named Plaintiffs' [REDACTED] to allow a reporter to determine the identity of the minor children who are Plaintiffs in this lawsuit. This is especially true in light of the fact that [REDACTED] [REDACTED]. (See the sealed documents labeled "Exhibit A"). This could result in the revelation of additional information (whether accurate of

not) in media reports which may allow laypersons to identify the children as well as the children's case workers.

7.

The facts and legal issues of this lawsuit are yet to be developed. The public will learn about the true facts of this case as a result of the trial of the case. These issues should be dealt with in a court of law, not in the press. MDHS should be allowed to carry out its mission to protect the children of Mississippi and not be subject to the undue burden of trying this case in the media.

8.

Defendants request that the Court waive the requirement for a separate Memorandum of Authorities and accept this, Defendants' Response to Plaintiffs' Motion for Leave to Release the Redacted Social Worker Expert Report of Dr. Lewis, in its place pursuant to Rule 7.2(D) of the Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi.

WHEREFORE, PREMISES CONSIDERED, Defendants' respectfully request that the Plaintiffs' Motion for Leave to Release the Redacted Social Work Expert Report of Dr. Lewis is denied and that said Report is suppressed until trial.

THIS, the 17th of March, 2006.

Respectfully submitted,

**HALEY BARBOUR, as Governor of the State of MS;
DONALD TAYLOR, as Exec. Dir. of the Dept.
of Human Services; and RICKIE FELDER as
Director of the Div. of Family and Children's
Services**

BY: /s/ Kenya Key Rachal
Kenya Key Rachal (MSB #99227)

OF COUNSEL:

Attorney General Jim Hood
State of Mississippi
P.O. Box 220
Jackson, MS 39205-0220

McGLINCHEY STAFFORD, PLLC
Dewitt L. ("Rusty") Fortenberry, Jr. (MSB #5435)
Kenya Key Rachal (MSB #99227)
Gretchen L. Zmitrovich (MSB #101470)
Ashley Tullos Young (MSB #101839)
John T. Rouse (MSB #101586)
City Centre South, Suite 1100
200 South Lamar Street (39201)
Post Office Drawer 22949
Jackson, Mississippi 39225
Telephone: (601) 960-8400
Facsimile: (601) 352-7757

CERTIFICATE OF SERVICE

I hereby certify that I have mailed, via United States Postal Service, proper postage affixed, the foregoing pleading, to the following counsel of record:

W. Wayne Drinkwater, Jr. Esq.
Melody McAnally, Esq.
BRADLEY ARANT ROSE & WHITE LLP
Suite 450, One Jackson Place
Post Office Box 1789
Jackson, MS 39215

Stephen H. Leech, Esq.
850 East River Place, Suite 300
Jackson, Mississippi 39215

Marcia Robinson Lowry, Esq.
Eric E. Thompson, Esq.
Tara Crean, Esq.
Erik S. Pitchal, Esq.
Margaret Ross, Esq.
CHILDREN'S RIGHTS, INC.
404 Park Avenue
New York, New York 10016

Harold E. Pizzetta, III
Special Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 220
Jackson, MS 39205

Eric S. Manne, Esq.
John Piskora, Esq.
LOEB & LOEB, LLP
345 Park Avenue
New York, NY 10154

SO CERTIFIED, this the **17th** day of **March, 2006**.

/s/ Kenya Key Rachal
Kenya Key Rachal